

**B. Third Party Approach to Regulation Enforcement****C. Crane Certification**

1. By OSHA
2. By USCG

**D. Tonnage Study**

1. Impacts
2. Development of recommendations

**FOR FURTHER INFORMATION CONTACT:**

Mr. Norman W. Lemley, Executive Director, Commercial Fishing Industry Vessel Advisory Committee, U.S. Coast Guard Headquarters (G-MTH), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-2967.

Dated: December 15, 1989.

**M. J. Schiro,**

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 89-29733 Filed 12-21-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-106]

**Commercial Fishing Industry Vessel Advisory Committee, Subcommittee on Licensing Alternatives; Subcommittee Meeting**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Subcommittee on Licensing Alternatives of the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). The meeting will be held on January 24, 1990 in Room 2230 at Department of Transportation Headquarters, 400 Seventh Street SW., Washington, DC. The meeting is scheduled to begin at 8:00 a.m. and end at 4:00 p.m. Attendance is open to the public. Topics on the proposed agenda are as follows:

**A. Discussion of Licensing Alternatives Report****B. Development of Recommendations to the Main Committee****FOR FURTHER INFORMATION CONTACT:**

Mr. Norman W. Lemley, Executive Director, Commercial Fishing Industry Vessel Advisory Committee, U.S. Coast Guard Headquarters (G-MTH), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-2967.

Dated: December 15, 1989.

**M. J. Schiro,**

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 89-29734 Filed 12-21-89; 8:45 am]

BILLING CODE 4910-14-M



# Sunshine Act Meetings

Federal Register

Vol. 54, No. 245

Friday, December 22, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## BLACKSTONE RIVER VALLEY, NATIONAL HERITAGE CORRIDOR COMMISSION

### Meeting

Notice is hereby given in accordance with section 552b of title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, January 4, 1990.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7 p.m. at the Grafton Municipal Building, 30 Providence Road (Route 122), Grafton, Massachusetts for the following reasons:

1. Report of the Chairman;
2. Report of the Executive Director;
3. Report of the Treasurer;
4. Committee Reports;
5. Report on the Cultural Heritage and Land Management Plan;
6. Discussion of Orientation Program for Ad Hoc Committees on Plan Implementation;
7. Discussion of Policy for Responding to Requests Made to Commission;
8. Discussion of Commission Staffing/Consulting Needs;
9. Public Comments.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

**James Pepper,**

*Executive Director, Blackstone River Valley National Heritage Corridor Commission.*

[FR Doc. 89-29911 Filed 12-20-89; 3:07 am]

BILLING CODE 4310-70-M

## FEDERAL ELECTION COMMISSION

**DATE AND TIME:** Tuesday, December 19, 1989, 9:30 a.m.

**PLACE:** 999 E Street NW., Washington, D.C.

Due to extraordinary circumstances, and in accordance with 11 CFR 2.7(b), the Commission held a special closed meeting for the purpose of considering the selection of an Inspector General, pursuant to 11 CFR 2.4(b)(1).

### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Information Officer, Telephone: (202) 378-3155.

**Marjorie W. Emmons,**

*Secretary of the Federal Election Commission.*

[FR Doc. 89-29917 Filed 12-20-89; 3:08 pm]

BILLING CODE 6715-01-M

## SECURITIES AND EXCHANGE COMMISSION

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** [54 FR 51971, December 19, 1989].

**STATUS:** Open meeting.

**PLACE:** 450 Fifth Street NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** Thursday, December 14, 1989.

**CHANGE IN THE MEETING:** Deletion.

The following item will not be considered at an open meeting to be held on Thursday, December 21, 1989, at 11:00 a.m.:

Consideration of whether to grant Delta Government Options Corp. registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934. For further information, please contact Richard Konrath at (202) 272-2388 or Gordon K. Fuller at (202) 272-2414.

Please also note that the open meeting on the above date has been rescheduled from 10:00 a.m. to 11:00 a.m.

Commissioner Schapiro, as duty officer, determined that Commission business required the above changes.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Anthony Ain at (202) 272-2400.

Dated: December 19, 1989.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 89-29836 Filed 12-19-89; 4:45 pm]

BILLING CODE 8010-01-M



# Corrections

Federal Register

Vol. 54, No. 245

Friday, December 22, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket No. 90365-9065]

#### Proposed Revision of FIPS PUB 151, Posix; Portable Operating System Interface for Computer Environments

##### Correction

In notice document 89-8814 beginning on page 14829 in the issue of Thursday, April 13, 1989, make the following correction:

On page 14831, in the first column, in the third complete paragraph, in the second line, remove "October 13, 1989" and insert "6 months after publication in the Federal Register".

BILLING CODE 1505-01-D

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 170

RIN 3150-AD23

#### Revision of Fee Schedules: Radioisotope Licenses and Topical Reports

##### Correction

In proposed rule document 89-28157 beginning on page 49763 in the issue of Friday, December 1, 1989, make the following corrections:

1. On page 49763, in the third column, in the third line, "NCR" should read "NRC".

2. On page 49764, in the first column, under "Section 170.11 Exemptions", in the seventh line, insert "the" after "under".

3. On the same page, in the same column, under "Section 170.11 Exemptions", in the second paragraph, in the 12th line, "institutions" should read "institution".

4. On the same page, in the second column, under "Section 170.12 Payment of Fees", in the second paragraph, in the fourth line, "were" should read "where".

5. On the same page, in the third column, in the last complete paragraph, in the first line, insert "which" after "method".

6. On page 49766, in the first column, under "VI. REGULATORY ANALYSIS", in the fourth line, "(32 U.S.C. 9701)" should read "(31 U.S.C. 9701)".

7. On the same page, in the third column, in the fourth complete paragraph, in the fifth line, "533" should read "553".

8. On page 49767, in the third column, under § 170.12(h), in the seventh line, "licenses" should read "licensees".

9. On page 49768, in the second column, in the table of "Schedule of Materials Fees", under entry 1.A., in the fifth line, "ore" should read "more".

10. On the same page, in the same column, in the same table, under entries 1.C. and 1.D., in the sixth and ninth lines after the "colon" add footnote 4.

11. On page 49769, in the third column, in the same table, under entry 3.O., in the fifth line, after the "colon" add footnote 5.

12. On page 49770, in the first column, the entry for 5.A. should read "Licenses specifically authorizing use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies."

13. On the same page, in the same column, the entry for 5.B. should read "Licenses specifically authorizing use of byproduct material for field flooding tracer studies."

14. On the same page, in the same column, under entry 7.B., in the 12th line, "devices" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

14 CFR Parts 11, 13, 21, 67, 137, 199

[Docket No. 26020; Amdt. Nos. 11-32, 21-67, 129-19, 137-13, 199-2]

RIN 2120-AD24

#### Organizational Changes and Delegations of Authority

##### Correction

In rule document 89-22317 beginning on page 39288 in the issue of Monday, September 25, 1989, make the following corrections:

##### § 11.25 [Corrected]

1. On page 39290, in the first column, under § 11.25, in the first line, "11.25(b)(iv)" should read "11.25(b)(2)(iv)".

##### § 21.215 [Corrected]

2. On page 39291, in the first column, under § 21.215, in the first line, "Application" should read "Applications".

##### § 67.19 [Corrected]

3. On page 39292, in the first column, under § 67.19, in the last line, "Managers" should read "Manager".

##### § Appendix A to Part 129 [Corrected]

4. On page 39294, in the first column, under "Appendix A to Part 129", in the second line, "(0)" should read "(b)".

##### § 137.77 [Corrected]

5. On the same page, in the third column, under § 137.77, in the first line, the (c) should be removed.

##### § 199.27 [Corrected]

6. On page 39296, in the third column, under § 199.27, in the second line, insert quotation marks (") after the word "function".

BILLING CODE 1505-01-D



**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 89-ANE-35; Amdt. 39-6411]

**Airworthiness Directives; General  
Electric Company (GE) CF6-6 Series  
Turbofan Engines***Correction*

In rule document 89-28933 beginning on page 51015 in the issue of Tuesday, December 12, 1989, make the following corrections:

**§ 39.13 [Corrected]**

1. On page 51016, in the third column, in § 39.13, under **General Electric Company**, in the ninth line, "Step" should read "Stage".

2. On the same page, in the same column, in § 39.13, in the last line, "Table 3" should read "Table 1".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Public & Airport Administration

44 CFR PART 15

Subpart 15.100 - General

Section 15.101 - Purpose and Scope

15.101-1 Purpose and Scope

15.101-2 Definitions

15.101-3 Policy

15.101-4 Organization

15.101-5 Authority

15.101-6 Responsibilities

15.101-7 Procedures

15.101-8 Reporting

15.101-9 Records

15.101-10 Training

15.101-11 Safety

15.101-12 Security

15.101-13 Environmental

15.101-14 Information

15.101-15 Miscellaneous

15.101-16 Other

15.101-17 Unpublished

15.101-18 Unpublished

15.101-19 Unpublished

15.101-20 Unpublished

15.101-21 Unpublished

15.101-22 Unpublished

15.101-23 Unpublished

15.101-24 Unpublished

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15.101-45 Unpublished

15.101-46 Unpublished

15.101-47 Unpublished

15.101-48 Unpublished

# **federal register**

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Friday  
December 22, 1989

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## **Part II**

### **Department of Agriculture**

**Agricultural Stabilization and Conservation  
Service**

**Commodity Credit Corporation**

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**7 CFR Parts 709, 1403, 1404, and 1408  
Debt Settlement Policies and Procedures;  
Final Rule**



**DEPARTMENT OF AGRICULTURE****Agricultural Stabilization and Conservation Service****Commodity Credit Corporation****7 CFR Parts 709, 1403, 1404, and 1408****RIN 0560-AA38****Debt Settlement Policies and Procedures****AGENCY:** Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, USDA.**ACTION:** Final rule.

**SUMMARY:** A proposed rule was published on June 19, 1989 at 54 FR 25718 with respect to the financial management practices of the Agricultural Stabilization and Conservation Service (ASCS) and the Commodity Credit Corporation (CCC). This final rule adopts, with minor changes, the provisions of the proposed rule. Accordingly, this final rule amends 7 CFR parts 709, 1403 and 1408 which relate to the administration of ASCS and CCC programs in order to set forth the policies and procedures of CCC regarding delinquent debts arising out of domestic transactions and the policies and procedures of CCC and ASCS regarding the assignment of payments. This rule sets forth the policies and procedures CCC will use to settle debts owed to CCC and other agencies of the United States. To the extent practicable, the final rule provides that CCC policies and procedures conform to the general guidelines set forth in the Federal Claims Collection Act, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3711, *et seq.*). To the extent practicable, CCC will also follow the provisions of the Federal Claims Collection Standards (4 CFR parts 101-105) with respect to administrative actions undertaken by CCC to settle claims. In addition, this final rule sets forth the manner in which CCC and ASCS payments may be assigned at 7 CFR part 1404 and deletes the current provisions at 7 CFR part 709.

**EFFECTIVE DATE:** December 31, 1989.

**FOR FURTHER INFORMATION CONTACT:** Paula Roney, Claims Administration and Contract Procedures Branch, Fiscal Division, ASCS, (202) 447-4061.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs and prices for consumers, individual industries, Federal, State or

local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under DR 1512-1. No sunset review date has been set for this regulation because review is ongoing.

This action will not increase the federal paperwork burden for individuals, small businesses, and others and will not have a significant impact on a substantial number of small entities. Therefore this action is exempt from the provision of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

The Federal Claims Collection Act of 1966 (the Act), as amended by the Debt Collection Act of 1982 (31 U.S.C. 3711, *et seq.*), and the joint regulations promulgated thereunder by the Comptroller General and the Attorney General (4 CFR Parts 101-105) provide minimum standards for the administrative collection of claims by the United States. The Act also provides that nothing therein shall diminish the existing authority of the head of an agency to settle, compromise, or close claims. The CCC Charter Act, as amended (15 U.S.C. 714, *et seq.*), provides that CCC shall have authority to make final and conclusive settlement and adjustment of any claims by or against it irrespective of the amount at issue. CCC is, therefore, not subject to the provisions of the Federal Claims Collection Act or its implementing regulations. However, it has been CCC policy to follow the Federal Claims Collection Standards (FCCS) to the maximum practicable extent. The FCCS require each federal agency to take aggressive action to collect debts owed it, and to cooperate with other federal agencies in their debt collection activities. Federal agencies are required to promulgate regulations consistent with the standards.

Currently, CCC follows procedures at 7 CFR part 13 for the offset or withholding of amounts approved by ASCS county committees for disbursement to agricultural producers. In all other cases, offset, withholdings, and stop payment policies at 7 CFR part

1408 are applicable. For procedures governing referrals of claims to the Department of Justice or the General Accounting Office the procedures in FCCS (4 CFR parts 101-105) may be followed. The regulations at 7 CFR part 1403 currently govern CCC policies regarding the assessment of late payment charges, referral of delinquent debts to credit reporting agencies, and referral of delinquent debts to IRS for tax refund offset.

This final rule deletes 7 CFR part 1408 which sets forth the setoff, withholding and stop payment policies of CCC and establishes under a single heading at 7 CFR part 1403, CCC policies and procedures governing the administrative collection, discharge, and referral of debts.

This regulation is necessary to protect the financial integrity of many federal agricultural programs by ensuring the Government will be able to collect, or otherwise settle, debts owed it by various individuals, organizations, and corporations.

This rule protects the right of CCC and ASCS to collect delinquent debts when payments have been assigned by allowing offset of any debts owed to CCC or ASCS by an assignor before payment is made to an assignee in accordance with the provisions of agricultural programs administered by county and State ASCS committees. Currently, offset may only be made of those debts entered on the applicable debt record prior to the date an assignment was accepted by CCC or ASCS. This change in policy would deter the circumvention of offset by such practices as the assignment of payments to friends, relatives, partners, or subsidiary corporations, as well as increase the ability of CCC and ASCS to recoup delinquent debts. This change would apply only to those debts owed to CCC and ASCS; the current procedures would continue to apply to requests for offset received from other federal agencies.

Under the final rule, the late payment interest rate CCC uses is a departure from the standard late payment rate prescribed by 31 U.S.C. 3717, which is based on the Treasury Department's current value of funds rate, as well as a change from the rate published in the proposed rule. Currently, the late payment interest rate is set by CCC in a notice published in the *Federal Register*. Such rate has been set at a fixed 13 percent and remained constant in spite of a dramatic fluctuation in interest rates in the past six years. The proposed rule provided that the late payment rate assessed on delinquent debts be based upon the rate CCC pays Treasury for



funds. It was proposed that late payment interest be assessed at a rate three percentage points higher than the CCC borrowing rate in effect on the date the debt became delinquent. In addition, for debts which remained delinquent for ninety (90) days, interest at an additional six percent would have been assessed.

Upon receipt of a comment on the proposed rule which asserted that the proposed late payment interest and additional interest rates were excessively high and would drive farmers deeper into debt, further review was made of CCC's proposed interest rates. Following this review it has been determined that CCC's late payment interest rate should be lowered to equal the rate of interest assessed under the Prompt Payment Act. Also, it was determined that for debts which remain delinquent for ninety (90) days, the additional interest assessed will be reduced from six percentage points to three percentage points above the late payment interest. With these changes, debtors will have an incentive to pay their debts timely without substantially increasing the amount of their debt. Furthermore, since the Prompt Payment Act rate has consistently been higher than CCC's borrowing rate, CCC will still be able to recover its borrowing costs. In addition, by charging debtors the same rate of interest on late payments as CCC pays if its payments are late, the problem of unequal treatment is eliminated.

This final rule also deletes 7 CFR part 709, which sets forth the manner in which ASCS and CCC payments may be assigned, and sets forth at 7 CFR part 1404 the criteria applicable to the assignment of ASCS and CCC program payments.

Three comments were received in response to the proposed rule published in the Federal Register on June 19, 1989 (54 FR 25718). One comment requested that the regulations include provisions to implement the requirement of the Agricultural Credit Act of 1987 that each loan program under the jurisdiction of the Secretary of Agriculture participate in state agricultural loan mediation programs. Since the requirement applies only to loan programs, provisions to implement it have been included in a proposed rule published in the Federal Register on August 22, 1989 (54 FR 34773) amending 7 CFR part 1405, rather than in the debt settlement policies and procedures. The regulations at 7 CFR part 1405 set forth general provisions applicable to CCC loans, purchases and other operations.

This commenter also felt that § 1403.6, which states that an accountant-

certified financial statement may be required before an installment arrangement will be considered, could cause debtors to incur a large expense while attempting debt settlement. After examination of the requirement, it has been determined that CCC would be adequately protected by requiring a financial statement which is attested to as accurate by the preparer, under penalty of perjury, whether debtor-certified or accountant-certified. Therefore, the section has been amended to state only that a certified financial statement will be required.

The same commenter asserted that the proposed late payment interest and additional interest rates were excessively high and would drive farmers deeper into debt. As discussed previously, after further review it was determined that CCC would use a lower rate of applicable interest.

This commenter further requested a reconsideration of the provision of § 1404.3 which states that, "[n]othing contained herein shall be construed to authorize an assignment given to secure the payment of the whole or any part of the purchase price of a farm \* \* \*". This provision was derived from the statutory requirement of 16 U.S.C. 590h(g) that assignments may only be made to finance making a crop, handling or marketing an agricultural commodity, or performing a conservation practice. Since assignments to secure payment of the purchase price of a farm or a fixed commodity rent are not included in the statute, they were specifically excluded from the regulations. However, since the section already provides that payments made in accordance with 7 CFR parts 701 and 1413 may only be assigned to finance making a crop, handling or marketing an agricultural commodity, or performing a conservation practice for the current year, the further exclusion is unnecessary and has been deleted from these regulations.

This commenter also takes exception to the provision of § 1404.6 which provides that all debts due ASCS or CCC may be offset without regard to assignments which may have been filed, as well as § 1404.8 which states that USDA shall not be liable in any suit if payment is not made to the assignee. The provision of § 1404.6 was developed to increase the ability of CCC and ASCS to recoup delinquent debts and to deter the circumvention of offset by such practices as the assignment of payments to friends, relatives, partners, or subsidiary corporations. Taking an assignment of a CCC or ASCS program payment as security for a debt has never been without risk. There has always been the possibility that a payment will

not be made, e.g., if a producer fails to comply with contract requirements, as well as the possibility that an assignment will not be recognized because payment is made with commodity certificates which are not subject to assignment. Therefore, it was determined that any heightened risk to lenders is outweighed by the benefit to the government in the increased ability to collect delinquent debts. With respect to the second provision, the language in § 1404.8 was taken directly from 16 U.S.C. 590h(g) which authorizes the assignment of many ASCS and CCC program payments and thus is not subject to change.

Another comment requested that examples be provided of how, when and what interest rates would be applicable to delinquent debts. Under § 1403.9 late payment interest will accrue from the date of delinquency at the rate of interest applicable under the Prompt Payment Act, but, if payment is made within thirty days from the date of delinquency, collection of the late payment interest will be waived. An additional interest rate of three percent per annum will be assessed from the date of delinquency on any portion of the debt which remains unpaid ninety days after the date of delinquency. However, if a statute, regulation, agreement or contract specifies the interest applicable to the debt involved, these regulations shall not apply. As such possibilities are endless, it is not feasible to give examples of all of the variations which are possible. Accordingly, in order not to mislead affected parties, examples are not included in this final rule.

The third commenter submitted a copy of a complaint filed April 18, 1989, in the U.S. District Court for the District of Minnesota as their comments on the proposed regulations. Since the complaint was filed prior to publication of the proposed rule, it was not responsive to the contents of the regulations. Furthermore, since the complaint is being answered as part of the judicial process, it is not appropriate to respond to it here.

#### List of Subjects

##### 7 CFR Part 709

Assignment of payment.

##### 7 CFR Part 1403

Interest on delinquent debts.

##### 7 CFR Part 1404

Assignment of payment.



## 7 CFR Part 1408

Setoff, Withholding and stop payment policies of Commodity Credit Corporation.

Accordingly, title 7 of the Code of Federal Regulations is amended as follows:

## PART 709—[REMOVED]

1. 7 CFR part 709 is removed.
2. 7 CFR part 1403 is revised to read as follows:

## PART 1403—DEBT SETTLEMENT POLICIES AND PROCEDURES

Sec.

- 1403.1 Applicability.
- 1403.2 Administration.
- 1403.3 Definitions.
- 1403.4 Demand for payment of debts.
- 1403.5 Collection by payment in full.
- 1403.6 Collection by installment payments.
- 1403.7 Collection by administrative offset.
- 1403.8 Withholding.
- 1403.9 Late payment interest and administrative charges.
- 1403.10 Waiver of late payment interest and administrative charges.
- 1403.11 Administrative appeal.
- 1403.12 Additional administrative collection action.
- 1403.13 Contact with debtor's employing agency.
- 1403.14 Prior provision of rights with respect to debt.
- 1403.15 Discharge of debts.
- 1403.16 Referral of delinquent debts to credit reporting agencies.
- 1403.17 Referral of debts to Department of Justice.
- 1403.18 Referral of delinquent debts to IRS for tax refund offset.
- 1403.19 Reporting of discharged debts to IRS.
- 1403.20 Referral of debts to private collection agencies.

Authority: 15 U.S.C. 714b and 714c.

## § 1403.1 Applicability.

Except as may otherwise be provided by statute, this part sets forth the manner in which the Commodity Credit Corporation (CCC) will settle and collect debts by and against CCC arising out of domestic transactions.

## § 1403.2 Administration.

The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, CCC and the Administrator, Agricultural Stabilization and Conservation Service (ASCS).

## § 1403.3 Definitions.

The following definitions shall be applicable to this part:

"Administrative charges" means the additional costs of processing delinquent debts against the debtor, to

the extent such costs are attributable to the delinquency. Such costs include, but are not limited to, costs incurred in obtaining a credit report, costs of employing commercial firms to locate debtor, costs of employing contractors for collection services, costs of selling collateral or property to satisfy the debt.

"Administrative offset" means deducting money payable or held by the United States Government, or any agency thereof, to satisfy in whole or in part a debt owed the Government, or any agency thereof.

"ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture (USDA).

"Carrier" means a company or person, including but not limited to railroads, motor carriers, ocean carriers or piggyback companies, providing transportation of USDA commodities or other transportation related service for compensation.

"Certified financial statement" means an account of the assets, liabilities, income and expenses of a debtor, executed in accordance with generally accepted accounting principles and attested to as accurate by the preparer, under penalty of perjury.

"CCC" means the Commodity Credit Corporation.

"Claim" means an amount of money or property which has been determined by CCC, after a notice of delinquency and a demand for the payment of the debt has been made by CCC, to be owed to CCC by any person other than a Federal agency.

"Credit reporting agency" means:

- (1) A reporting agency as defined at 4 CFR 102.5(a), or
- (2) Any entity which has entered into an agreement with USDA concerning the referral of credit information.

"Debt" means any amount owed to CCC or owed by CCC which has not been satisfied through payment or otherwise.

"Debt record" refers to the account, register, balance sheet, file, ledger, data file, or similar record of debts owed to CCC, ASCS, or any other Government Agency with respect to which collection action is being pursued, and which is maintained in an ASCS office.

"Delinquent debt" means: (1) Any debt owed to CCC that has not been paid by the date specified in the applicable statute, regulation, contract, or agreement; or (2) Any debt that has not been paid by the date specified in an initial notification of indebtedness mailed or hand-delivered pursuant to § 1403.4.

"Discharged debt" means any debt, or part thereof, which CCC has determined is uncollectible.

"IRS" means the Internal Revenue Service.

"Late payment interest rate" means the amount of interest charged on delinquent debts and claims. The late payment interest rate shall be determined as of the date a debt becomes delinquent and shall be equal to the rate of interest assessed under the Prompt Payment Act.

"Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, the Federal Government or a State government, or any agency thereof.

"Salary offset" means the deduction of money from the current pay account of a present or former Government employee payable by the United States Government to, or held by the Government for, such person to satisfy a debt that person owes the Government.

"Settlement" means any final disposition of a debt or claim.

"Shipment" means a carload, truckload, containerload, or other conveyance load of freight shipped from one location in one calendar day by one shipper for delivery. It shall be moved in accordance with the terms of a commercial or ocean bill of lading, or other similar agreement between the carrier and USDA.

"System of records" means a group of any records under the control of CCC or ASCS from which information is retrieved by the name of the individual, organization or other entity or by some identifying number, symbol, or other identification assigned to the individual, organization or other entity.

"Withholding" means the taking of action to temporarily prevent the payment of some or all amounts to a debtor under one or more contracts or programs.

## § 1403.4 Demand for payment of debts.

(a) When a debt is due CCC, an initial written demand for payment of such amount shall be mailed or hand-delivered to the debtor. If the debt is not paid in full by the date specified in the initial demand letter, or if a repayment schedule acceptable to CCC has not been arranged with the debtor, the initial demand shall be followed by two subsequent written demands at approximately 30-day intervals, unless it is determined by CCC that further demands would be futile and the debtor's response does not require rebuttal. The initial or subsequent



demand letters shall specify the following:

(1) The basis for and the amount of the debt determined to be due CCC, including the principal, applicable interest, costs and other charges;

(2) CCC's intent to establish an account on a debt record 30 days after the date of the letter, or other applicable period of time, if the debt is not paid within that time;

(3) The applicable late payment interest rate.

(i) If a late payment interest rate is specified in the contract, agreement or program regulation, the debtor shall be informed of that rate and the date from which the late payment interest has been accruing;

(ii) If a late payment interest rate is not specified in the contract, agreement or program regulation, the debtor shall be informed of the applicable late payment interest rate set out in § 1403.9.

(4) CCC's intent to collect the debt 30 days from the date of the initial demand letter, or other applicable period of time, by administrative offset from any CCC or ASCS payments due or to become due to the debtor, and that the claim may be reported to other agencies of the Federal government for offset from any amounts due or to become due to the debtor;

(5) If not previously provided, the debtor's right to request administrative review by an authorized CCC official, and the proper procedure for making such request. If the request relates to the:

(i) Existence or amount of the debt, it must be made within 15 days from the date of the letter;

(ii) Appropriateness of reporting to a credit reporting agency, it must be made within 30 days from the date of the letter; or

(iii) Appropriateness of referral to IRS for tax refund offset, it must be made within 60 days from the date of the letter.

(6) The debtor's right to a full explanation of the debt and to dispute any information in the records of CCC concerning the debt;

(7) That CCC maintains the right to initiate legal action to collect the amount of the debt;

(8) That if any portion of the debt remains unpaid or if a repayment schedule satisfactory to CCC has not been arranged 90 days after the due date, an additional interest rate shall be assessed on the unpaid balance of the debt as prescribed in § 1403.9(e);

(9) CCC's intent, if applicable, under § 1403.16, to report any delinquent debt to a credit reporting agency no sooner than 60 days from the date of the letter;

(10) CCC's intent, if applicable, under § 1403.18, to refer any delinquent debt to the IRS, no sooner than 60 days from the date of the letter, to be considered for offset against any tax refund due or to become due the debtor.

(b) When CCC deems it necessary to protect the Government's interest, written demand may be preceded by other appropriate actions.

#### § 1403.5 Collection by payment in full.

Except as CCC may provide in accordance with § 1403.6, CCC shall collect debts owed to the Government, including applicable interest, penalties, and administrative costs, in full, whenever feasible whether the debt is being collected by administrative offset or by another method, including voluntary payment. If a debt is paid in one lump sum after the due date, CCC will impose late payment interest, as provided in § 1403.9, unless such interest is waived as provided in § 1403.10.

#### § 1403.6 Collection by installment payments.

(a) Payments in installments may be arranged, at CCC's discretion, if a debtor furnishes satisfactory evidence of inability to pay a claim in full by the specified date. The size and frequency of installment payments shall:

(1) Bear a reasonable relation to the size of the debt and the debtor's ability to pay; and

(2) Normally be of sufficient size and frequency to liquidate the debt in not more than three years.

(b) Except as otherwise determined by CCC, no installment arrangement will be considered unless the debtor submits a certified financial statement which reflects the debtor's assets, liabilities, income, and expenses. The financial statement shall not be required to be submitted sooner than 15 business days following its request by CCC.

(c) All installment payment agreements shall be in writing and may require the payment of interest at the late payment interest rate in effect on the date such agreement is executed. The installment agreement shall specify all the terms of the arrangement and include provision for accelerating the debt in the event the debtor defaults. A confession of judgment provision may be included in the agreement.

(d) CCC may deem a repayment plan to be abrogated if the debtor fails to comply with its terms.

(e) If the debtor's financial statement or other information discloses the ownership of assets which are not encumbered, the debtor may be required to secure the payment of an installment note by executing a security agreement

and financing agreement which provides CCC a security interest in the assets until the debt is paid in full.

(f) If the debtor owes more than one debt to CCC, CCC may allow the debtor to designate the manner in which a voluntary installment payment is to be applied. If the debtor does not designate the application of a voluntary installment or partial payment, the payment will be applied to such debts as determined by CCC.

#### § 1403.7 Collection by administrative offset.

(a) The provisions of this section shall apply to all debts due CCC except as otherwise provided in this part and part 1404 of this Chapter. This section is not applicable to:

(1) CCC requests for administrative offset against money payable to a debtor from the Civil Service Retirement and Disability Fund and CCC requests for salary offset against a present or former employee of the Federal Government which shall be made in accordance with regulations at part 3 of this title;

(2) CCC requests for administrative offset against a Federal income tax refund payable to a debtor which shall be made in accordance with § 1403.18;

(3) Cases in which CCC must adjust, by increasing or decreasing, a payment which is to be paid under a contract in order to properly make other payments due by CCC; and

(4) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by statute.

(b) Debts due CCC may be collected by administrative offset from amounts payable by CCC when:

(1) The debtor has been provided written notification of the basis and amount of the debt and has been given an opportunity to make payment. Such written notification and opportunity includes notice of the right to pursue an administrative appeal in accordance with Part 780 of this Title or any other applicable appeal procedures, if not previously provided;

(2) The debtor has been provided an opportunity to request to inspect and copy the records of CCC related to the debt;

(3) The debtor has been notified in writing that the debt will be collected by administrative offset if not paid; and

(4) The debt has not been delinquent for more than ten years or legal action to enforce the debt has not been barred by an applicable period of limitation, whichever is later.



(c) Administrative offset shall also be effected against amounts payable by CCC:

(1) When requested or approved by the Department of Justice; or

(2) When a person is indebted under a judgment in favor of CCC.

(d) Debts due CCC from carriers for overcharges shall be offset against amounts due such carriers under freight bills involving shipments if:

(1) The carrier, without reasonable justification, has declined payment of the debt or has failed to pay the debt after being given a reasonable opportunity to make payment; and

(2) The period of limitation prescribed at 49 U.S.C. 11706(f) has not expired.

(e) Debts due CCC from carriers for loss or damage shall be offset against amounts due such carriers under freight bills involving shipments if:

(1) Timely demand for payment was made on the carrier;

(2) The carrier has declined payment of the debt without reasonable justification or has ignored the claim; and

(3) The period of limitation prescribed at 49 U.S.C. 11707(e) has not expired.

(f) Any overcharge or loss or damage debt due CCC on which the applicable period of limitation has run may be offset against any amounts owing by CCC to the carrier which are subject to a defense of limitation.

(g) A payment due any person may be offset when there is a breach of a contract or a violation of CCC program requirements, and offset is considered necessary by CCC to protect the financial interests of the Government.

(h) In the case of any procurement contract with CCC which provides for invoicing at the time of shipment with delivery to be made at designated destination points when:

(1) Payment is made to the contractor prior to receipt of evidence of delivery, and

(2) CCC thereafter determines that the Contractor is indebted to CCC because of losses sustained from shortage, damage to or deterioration of the commodity while in transit and prior to delivery, CCC may offset such indebtedness against amounts due and payable to the Contractor under any other contract with CCC providing the Contractor has not assigned the proceeds of such contract in accordance with part 1404 of this chapter.

(i) CCC may effect administrative offset against a payment to be made to a debtor prior to completion of the procedures required by (b)(1-3) of this section if:

(1) Failure to take the offset would substantially prejudice CCC's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit the completion of those procedures.

(j)(1) Debts due any agency other than CCC shall be offset against amounts payable by CCC to a debtor when an agency of the U.S. Government has submitted a written request for offset which is mailed or hand-delivered to the appropriate ASCS State office, Kansas City Management Office or Kansas City Commodity Office. Such written request must:

(i) Bear the signature of an authorized representative of the requesting agency;

(ii) Include a certification that all requirements of the law and the regulations for collection of the debt and for requesting offset have been complied with;

(iii) State the name, address (including county), and, where legally available, the social security number or employer ID number of the debtor and a brief description of the basis of the debt, including identification of the judgment, if any.

(iv) State the amount of the debt separately as to principal, interest, penalties, and administrative costs. Interest, if any, shall be computed on a daily basis to a date shown in the request. The amount to be offset shall not exceed the principal sum owed by the debtor, plus interest computed in accordance with the request, and any late payment interest, penalties and administrative costs that have been assessed;

(v) Certify that the debtor has not filed for bankruptcy. If the debtor has filed for bankruptcy, a copy of the order of the bankruptcy court relieving the agency from the automatic stay must be included; and

(vi) State the name, address, and telephone number of a contact person within the agency and the address to which payment should be sent.

(2) Unless prohibited by law, the head of an agency, or a designee, may defer or subordinate in whole or in part the right of the agency to recover through offset all or part of any indebtedness to such agency, or may withdraw a request for offset. Notice of such action must be sent to the appropriate ASCS office.

(k)(1) After CCC has complied with the provisions of this part, CCC may request other agencies of the Government to offset amounts payable by them to persons indebted to CCC.

(2) In the case of a request to IRS for a tax refund offset, the provisions at § 1403.18 shall apply.

(l)(1) Debts shall be collected by offset in the following order of priority without regard to the date of the request for such collection:

(i) Debts to CCC.

(ii) Debts to other agencies of USDA as determined by CCC.

(iii) Debts to other government agencies as determined by CCC.

(2) In the case of multiple debts involving the same debtor, CCC may, at its discretion, deviate from the usual order of priority in applying recovered amounts to debts owed other agencies when considered to be in the Government's best interest. Such decision shall be made by CCC based on the facts and circumstances of the particular case.

(m)(1) No amounts payable to a debtor by CCC shall be paid to an assignee until there have been collected any amounts owed by the debtor except as provided in this subsection.

(2) A payment which is assigned in accordance with Part 1404 of this Chapter by execution of Form CCC-36 shall be subject to offset for any debt owed to CCC or ASCS without regard to the date notice of assignment was accepted by CCC or ASCS.

(3) A payment which is assigned in accordance with Part 1404 of this Chapter by execution of Form CCC-252 shall be offset:

(i) Against any debt of the assignor entered on the debt record of the applicable ASCS office prior to the filing of such form with CCC or ASCS, or

(ii) At anytime, regardless of the date of filing of such form with CCC or ASCS, if the debt which is the basis for the offset arises under the same contract under which the payment is earned by the assignor.

(4) Offset shall be made, if the Internal Revenue Service so requests or has served a Notice of Levy, of any amounts for which the assignor is indebted to the United States for taxes, for which a notice of lien was filed in accordance with the provisions of the Internal Revenue Code prior to the date the notice of assignment was accepted by CCC or ASCS. The burden of determining whether a notice of lien has been filed shall be upon the assignee.

(5) With respect to all other Federal agencies, offset shall be made of any amounts due any other Federal agency which are entered on the debt record of the appropriate ASCS office prior to the date the notice of assignment was accepted by CCC or ASCS.

(6) Any amount due and payable to the assignor which remains after deduction of amounts paid to the assignee shall be available for offset.



(n) Amounts recovered by offset for CCC and ASCS debts but later found not to be owed to the Government shall be promptly refunded.

(o) The debtor shall be notified whenever any offset action has been taken.

(p) Offsets made pursuant to this section shall not deprive a debtor of any right he might otherwise have to contest the debt involved in the offset action either by administrative appeal or by legal action.

(q) Any action authorized by the provisions of this section may be taken against amounts payable to a debtor who operates under more than one name, provided there is identical ownership, or CCC determines that the debtor has established an entity for the purpose of avoiding the payment of the claim or debt.

(r) The amount to be offset shall not exceed the actual or estimated amount of the debt, including interest, administrative charges, and penalties, unless the Department of Justice requests that a larger specified amount be offset.

(s) Offset action will not be taken against payments when:

(1) The payment represents loan or purchase proceeds for a commodity which is subject to the rights of the holder of a prior valid enforceable lien. However, any amount that exceeds the amount of the prior lien shall be available for offset.

(2) A debt has been discharged as provided in § 1403.15.

(3) The amount payable to the debtor is used to satisfy a prior lien on property pledged as collateral for a CCC loan or sold to CCC. However, any amount exceeding the amount of the prior lien shall be available for offset.

(4) CCC determines such action will unduly interfere with the administration of a CCC or ASCS program.

(5) The debt has been delinquent for more than ten years or legal action to enforce the debt due CCC is barred by an applicable period of limitation, whichever is later.

#### § 1403.8 Withholding.

(a) Withholding of a payment prior to the completion of an applicable offset procedure may be made from amounts payable to a debtor by CCC to ensure that the interests of CCC and the United States will be protected as provided in this section.

(b) A payment may be withheld to protect the interests of CCC or the United States only if CCC determines that:

(1) There has been a serious breach of contract or violation of program

requirements and the withholding action is considered necessary to protect the financial interests of CCC;

(2) There is substantial evidence of violations of criminal or civil frauds statutes and criminal prosecution or civil frauds action is of primary importance to program operations of CCC;

(3) Prior experience with the debtor indicates that collection will be difficult if amounts payable to the debtor are not withheld;

(4) There is doubt that the debtor will be financially able to pay a judgment on the claim of CCC;

(5) The facts available to CCC are insufficient to determine the amount to be offset or the proper payee;

(6) A judgment on a claim of CCC has been obtained; or

(7) Such action has been requested by the Department of Justice.

(c) Except for debts due CCC or ASCS, withholding action by CCC on amounts payable to debtors of other Government agencies may not be made unless requested by the Department of Justice.

#### § 1403.9 Late payment interest and administrative charges.

(a)(1) The provisions of this section are applicable to all persons whose debt to CCC becomes delinquent after January 1, 1990, unless the debtor and CCC agree otherwise.

(2) Late payment interest provisions of this section shall not apply:

(i) To debts owed by Federal agencies and State and local governments.

Interest on debts owed by such entities shall be charged in accordance with applicable statutes or, if none are applicable, at the rate of interest charged by the U.S. Treasury for funds borrowed by CCC on the day the debt became delinquent;

(ii) If an applicable statute, regulation, agreement or contract either prohibits the charging of such interest or specifies the interest or charges applicable to the debt involved;

(iii) If the late payment interest is waived by CCC.

(b) CCC will assess late payment interest on the full amount of delinquent debts. For purposes of this section, the term "full amount of the delinquent debt" means the sum of the principal, accrued regular loan interest or accrued program interest, and any other charges which are otherwise due and owing to CCC on the delinquent debt at the time the late payment interest is assessed, except as provided in paragraphs (a)(2) and (d)(3) of this section.

(c) The late payment interest shall be expressed as an annual rate of interest

which CCC charges on delinquent debts. The late payment interest rate shall be equal to the rate of interest assessed under the Prompt Payment Act, determined as of the date specified in paragraphs (d)(1) and (d)(2) of this section.

(d)(1) When a debt results from a statute, regulation, contract or other agreement with specific provisions for late payment interest and payment due date, late payment interest shall accrue on the amount of the debt from the first day the debt became delinquent, unless otherwise provided by statute.

(2) With respect to debts not resulting from a statute, regulation, contract or agreement containing specific provisions for late payment interest and payment due date, late payment interest shall begin to accrue from the date on which notice of the debt is first mailed or hand-delivered to the debtor.

(3) The rate of late payment interest initially assessed will be fixed for the duration of the indebtedness, except when a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement. CCC may then set a new rate of interest which reflects the late payment interest rate in effect at the time the new agreement is executed. All charges which accrued, but which were not collected under the defaulted agreement, shall be added to the principal to be paid under a new repayment agreement.

(4) The late payment interest on delinquent debts will accrue on a daily basis.

(e) Except as specified in paragraph (a)(2) of this section, an additional interest rate of three (3) percent per annum will be assessed on any portion of a debt which remains unpaid ninety (90) days after the date described in paragraphs (d)(1) or (d)(2) of this section, if no repayment schedule satisfactory to CCC has been agreed upon. Such rate will be assessed retroactively from the date of delinquency and applied on a daily basis to all amounts due on the debt including the principal balance of the debt plus regular interest, late payment interest and other charges. Such rate shall continue to accrue until the delinquent debt has been paid.

(f) CCC shall assess as administrative charges the additional costs of processing delinquent debts against the debtor, to the extent such costs are attributable to the delinquency. Such costs include, but are not limited to, costs incurred in obtaining a credit report, costs of employing commercial firms to locate debtor, costs of employing contractors for collection



services, costs of selling collateral or property to satisfy the debt.

(g) When a debt is paid in partial or installment payments, payments will be applied first to additional interest assessed in accordance with paragraph (e) of this section and administrative charges, second to assessed late payment interest, and third to outstanding principal.

**§ 1403.10 Waiver of late payment interest, additional interest and administrative charges.**

(a) CCC shall waive the collection of late payment interest and administrative charges on a debt or any portion of a debt which is paid within 30 days after the date on which late payment interest began to accrue.

(b) CCC shall waive the collection of additional interest on debts which are appealed in accordance with 7 CFR Part 780 or other applicable appeal procedures from either the date of the appeal or the date such interest began to accrue, whichever is later, until the date a final administrative determination is issued. Such waiver shall not apply for any delay due to:

(1) The appellant's request for a postponement of the scheduled hearing;

(2) The appellant's request for an additional time following the hearing to present additional information or a written closing statement; or

(3) The appellant's failure to timely present information to the reviewing authority.

(c) Assessment and collection of late payment interest, additional interest and administrative charges under this Part may be waived by CCC in full, or in part, if it is determined that such action is in the best interest of CCC.

**§ 1403.11 Administrative appeal.**

If the opportunity to appeal the determination has not previously been provided under parts 24 or 780 of this title or any other appeal procedure, a debtor may obtain an administrative review under part 780 of this title of CCC's determination concerning the existence or amount of a debt, if a request is filed with the authority who made the determination within 15 days of the date of CCC's initial demand letter.

**§ 1403.12 Additional administrative collection action.**

Nothing contained in this part shall preclude the use of any other administrative remedy which may be available to CCC to collect debts owed to the Government.

**§ 1403.13 Contact with debtor's employing agency.**

When a debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, CCC may contact the employing agency to arrange for payment of the debt by allotment or otherwise, in accordance with section 206 of Executive Order No. 11222, May 8, 1965, 30 FR 6469.

**§ 1403.14 Prior provision of rights with respect to debt.**

CCC will not provide an administrative appeal with respect to issues which were subject to administrative review at the debtor's request as provided under another statute or regulation before:

- (a) Effecting administrative offset;
- (b) Referring the debt to private collection or credit reporting agencies;
- (c) Referring the debt to the Office of Personnel Management (OPM) for salary offset against the current pay of a present or former Government employee; or
- (d) Referring the debt to IRS for tax refund offset.

**§ 1403.15 Discharge of Debts.**

(a) Except as required by other applicable regulation or statute, a debt or part thereof owed CCC shall be discharged and the records and accounts on that debt closed in the following situations:

- (1) When an obligation or part thereof is discharged in bankruptcy;
  - (2) When an obligation or part thereof is the subject of a final judgment entered by a court of competent jurisdiction which is adverse to CCC;
  - (3) When a debt or part thereof is compromised and paid, the amount of such compromise;
  - (4) When collection of a debt by administrative offset is barred in accordance with § 1403.7(s)(5).
- (b) A debt or part thereof owed CCC may be discharged and the records and accounts on that debt closed when the Controller, CCC, has determined that such action is in the best interest of CCC.

(c) A claims official or claims officer may discharge a delinquent debt if such debt arises under the terms of the authority delegated to such official or officer in the following circumstances:

- (1) The delinquent debt is owed by an entity which has been liquidated or dissolved and no legal remedy is feasible.
- (2) The delinquent debt is owed by an individual who:

(i) Is declared legally insane or incompetent;

(ii) Possessed of no assets or other means of payment; and

(iii) Possessed of no reasonable prospects of being able to pay the debt in the future.

(3) The delinquent debt was incurred by an individual who is deceased, and from whose estate recovery cannot be made.

(d) Debts discharged in accordance with this section may be reported to the Internal Revenue Service pursuant to § 1403.19.

**§ 1403.16 Referral of delinquent debts to credit reporting agencies.**

(a) This section specifies the procedures that will be followed by CCC and the rights that will be afforded to debtors when CCC reports delinquent debts to credit reporting agencies.

(b) Before disclosing information to a credit reporting agency in accordance with this part, CCC shall review the claim and determine that it is valid and delinquent.

(c) Before a debt may be referred to a credit reporting agency, the debtor must be notified, pursuant to § 1403.4, of CCC's intent to make such a report. Such notification shall include:

(1) CCC's intent to disclose to a credit reporting agency that the debtor is responsible for the debt, and that such disclosure will be made not less than 60 days after notification to such debtor.

(2) The information intended to be disclosed to the credit reporting agency under paragraph (g)(1) of this section.

(3) The debtor's right to enter a repayment agreement on the debt, including, at the discretion of CCC, installment payments, and that if such an agreement is reached, the debt will not be referred to a credit reporting agency.

(4) The debtor's right to review of this action in accordance with paragraph (i) of this section.

(d) The debtor shall be notified, in writing at the debtor's last known address, when CCC has reported any delinquent debt to a credit reporting agency.

(e)(1) CCC shall notify each credit reporting agency to which an original disclosure of delinquent debt information was made of any substantial change in the condition or amount of the claim.

(2) CCC shall promptly verify or correct, as appropriate, information about the debt on request of a credit reporting agency. The records of the debtor shall reflect any correction resulting from such request.



(f) Information reported to a credit reporting agency on delinquent debts shall be derived from the system of records maintained by CCC.

(g) CCC shall limit delinquent debt information disclosed to credit reporting agencies to:

(1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

(h) Reasonable action shall be taken to locate a debtor for whom CCC does not have a current address before reporting delinquent debt information to a credit reporting agency.

(i)(1) Before disclosing delinquent debt information to a credit reporting agency, CCC shall, upon request of the debtor, provide for a review of the debt in accordance with § 1403.11. This review shall only consider defenses or arguments which were not available or could not have been available at any previous appeal proceeding permitted under § 1403.11.

(2) Upon receipt of a request for review within 30 days from the date of notice to the debtor of intent to refer delinquent debt information to a credit reporting agency, CCC shall suspend its schedule for disclosure to a credit reporting agency until a final decision regarding the appropriateness of disclosure to a credit reporting agency is made.

(3) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, the debtor shall be notified of the scheduled date on or after which the debt will be referred to the credit reporting agency. The debtor will also be notified of any changes from the initial notification in the information to be disclosed.

(j)(1) In accordance with guidelines established by the Executive Vice President, CCC, the responsible claims official shall report to credit reporting agencies delinquent debt information specified in paragraph (g) of this section.

(2) The agreements entered into by USDA and credit reporting agencies shall provide the necessary assurances to CCC that the credit reporting agencies to which information will be provided are in compliance with the provisions of all the laws and regulations of the United States relating to providing credit information.

(3) CCC shall not report delinquent debt information to credit reporting agencies when:

(i) The debtor has entered a repayment agreement covering the debt with CCC, and such agreement is still valid; or

(ii) CCC has suspended its schedule for disclosure of delinquent debt information pursuant to paragraph (i)(2) of this section.

(k) Disclosures made under this section shall be in accordance with the requirements of the Privacy Act, as amended (5 U.S.C. 552a).

#### § 1403.17 Referral of debts to Department of Justice.

Debts which cannot be collected in accordance with these regulations may be referred to the Department of Justice for collection action.

#### § 1403.18 Referral of delinquent debts to IRS or tax refund offset.

CCC may refer legally enforceable delinquent debts to IRS to be offset against tax refunds due to debtors under 26 U.S.C. 6402, in accordance with the provisions of 31 U.S.C. 3720A and Treasury Department regulations.

#### § 1403.19 Reporting discharged debts to IRS.

(a) In accordance with IRS regulations, CCC may report to IRS as discharged debts on IRS Form 1099-G only the amounts specified in paragraph (b) of this section.

(b) The following discharged debts may be reported to IRS:

(1) The amount of a debt discharged under a compromise agreement between CCC and the debtor, except for compromises made due to doubt about the Government's ability to prove its case in court for the full amount of the debt.

(2) The amount of a debt discharged by the running of the statutory period of limitation for collecting the debt by administrative offset specified in 31 U.S.C. 3716.

(3) The amount of a debt discharged by CCC in accordance with § 1403.15(b).

#### § 1403.20 Referral of debts to private collection agencies.

If CCC's collection efforts have been unsuccessful after 90 days and the delinquent debt remains unpaid, CCC may refer the debt to a private collection agency for collection.

3. The following new part 1404 is added to title 7 of the Code of Federal Regulations:

### PART 1404—ASSIGNMENT OF PAYMENTS

Sec.  
1404.1 General Statement.  
1404.2 Definitions.

Sec.  
1404.3 Payments which may be assigned.  
1404.4 Execution of assignment form.  
1404.5 Payment assigned not to be discounted.  
1404.6 Payment to the assignee.  
1404.7 Misrepresentations.  
1404.8 Liability of the Secretary or disbursing agents.  
1404.9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 590h(g).

#### 1404.1 General statement.

This part sets forth the manner in which a person may assign a cash payment which is made by the Agricultural Stabilization and Conservation Service (ASCS) or the Commodity Credit Corporation (CCC). Such payments may only be assigned in the manner set forth in this part.

#### § 1404.2 Definitions.

(a)(1) "Assignee" means any person, including any agency of the Federal Government, to whom an assignment of an ASCS or CCC payment is made in accordance with this part.

(2) "Assignor" means any person who is the recipient of a payment from ASCS or CCC who assigns the payment to another person in accordance with this part.

(3) "Payment" means a cash payment and excludes

(i) Any payment made in accordance with part 1470 of this title;

(ii) Price support loan or purchase agreement proceeds; and

(iii) Any payments made in accordance with parts 1487, 1488, 1491, 1492, and 1493 of this title.

(b) The terms defined in parts 719, 1413, 1421 and 1427 shall also be applicable to this part.

#### § 1404.3 Payments which may be assigned.

(a) Except as otherwise provided in this part or in individual program regulations, contracts and agreements entered into by ASCS or CCC, any payment due a person from ASCS or CCC may be assigned.

(b)(1) A payment which is made to a producer in accordance with 7 CFR parts 701 and 1413 may not be assigned to pay or secure any preexisting indebtedness.

(2) Payments made in accordance with 7 CFR parts 701 and 1413 may be assigned only as security for cash or advances to finance making a crop, handling or marketing an agricultural commodity, or performing a conservation practice, for the current



crop year. To finance making a crop means

(i) To finance the planting, cultivating, or harvesting of a crop, including the purchase of equipment required therefor and the payment of cash rent for land used therefor, or

(ii) To provide food, clothing, and other necessities required by the producer or persons dependent upon the producer.

#### § 1404.4 Execution of assignment form.

(a)(1) The assignment of any ASCS or CCC payment must be made by the execution of Form CCC-36 or Forms CCC-251 and CCC-252. Form CCC-36 is applicable to payments made under programs administered in accordance with 7 CFR parts 701, 704, 1413, 1430, 1468, 1472 and 1475. Such form is also applicable to any other program which is administered by a county ASC committee. Forms CCC-251 and 252 are applicable to all other CCC or ASCS programs and contracts.

(2)(i) To be recognized by ASCS or CCC, Form CCC-36 must be filed in the county ASCS office prior to the time the county committee approves the making of the payment covered by the assignment. To be recognized by ASCS or CCC, Forms CCC-251 and 252 must be filed with the ASCS or CCC office from which the payment will be made prior to the making of the payment.

(ii) Form CCC-36 or Forms CCC-251 and 252 must be signed by both the assignor and the assignee. With respect to Form CCC-36, the assignor's signature must be witnessed by a member of the county ASC committee for the county where the farm is located, or by an employee of the county committee, unless the assignee is a bank whose deposits are insured by the Federal Deposit Insurance Corporation, the Farmers Home Administration, or a production credit association supervised by the Farm Credit Administration, in which case the assignment may be witnessed by a bonded officer of such lending institution.

(3) The assignor and the assignee shall promptly notify the appropriate ASCS or CCC office of any change affecting the assignment.

#### § 1404.5 Payment assigned not to be discounted.

(a) With respect to assignments made by execution of Form CCC-36, if interest is charged by the assignee on the amount advanced, the rate of interest must not be in excess of the maximum rate lawfully chargeable under the law of the State where the farm is located.

(b) The payment assigned shall not be discounted by charging the assignor more than the current cash price for any supplies furnished or in any other manner whatsoever. Interest may be deducted by the assignee in advance from any cash advancement.

#### § 1404.6 Payment to the assignee.

(a) The assignee shall be paid the smaller of the amount specified on Form CCC-36 or CCC-251 or the amount of the payment earned under the program or contract covered by the assignment. Any indebtedness owed by the assignor to CCC, ASCS, or any other agency of the United States shall be subject to offset.

(b) Any indebtedness owed by the assignor to CCC or ASCS shall be offset from any payment which is owed by CCC or ASCS without regard to the date of filing of a Form CCC-36 with the applicable ASCS or CCC office. Except as provided in paragraph (d) of this section, any indebtedness owed by the assignor to CCC or ASCS shall be offset from any payment which is owed by CCC or ASCS if such indebtedness was entered on the debt record of the applicable ASCS or CCC office prior to the date of the filing of Forms CCC-251 and 252 with the applicable ASCS or CCC office.

(c) Any indebtedness owed by the assignor to any agency of the United States other than CCC or ASCS which was entered on the debt record of the applicable ASCS or CCC office prior to the date of filing of the Form CCC-36 or Forms CCC-251 and 252 with such office shall be offset prior to the making of any payment to the assignee.

(d) Any indebtedness arising under a contract between the assignor and ASCS or CCC which is the subject of the assignment shall be offset from the payment prior to the making of any payment to the assignee under such contract without regard to the date of

the filing of Form CCC-36 or Forms CCC-251 and 252 with the appropriate ASCS or CCC office.

#### § 1404.7 Misrepresentations.

If ASCS or CCC has reason to believe that any material misrepresentation was made by the assignor or the assignee in executing Forms CCC-36, CCC-251 or CCC-252, ASCS or CCC shall give notice thereof to the assignor and the assignee. If, after investigation and opportunity for the assignor and assignee to be heard, ASCS or CCC finds that any material misrepresentation was in fact made, ASCS or CCC shall notify the assignor and the assignee of such finding, and void such assignment, and insofar as concerns ASCS, CCC or any other agency of the United States, the assignment shall be of no effect.

#### § 1404.8 Liability of the Secretary or disbursing agents.

Neither the United States, the CCC, the Secretary nor any disbursing agent shall be liable in any suit if payment is made to the assignor without regard to the existence of any assignment, and nothing contained herein shall be construed to authorize any suit against the United States, the CCC, the Secretary or any disbursing agent if payment is not made to the assignee, or if payment is made to only one of several assignees.

#### § 1404.9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 35 and have been assigned OMB control number 0560-0004.

#### PART 1408—[REMOVED]

##### 4. 7 CFR part 1408 is removed.

Signed at Washington, DC, on December 15, 1989.

John A. Stevenson,  
Acting Administrator, Agricultural  
Stabilization and Conservation Service,  
Executive Vice President, Commodity Credit  
Corporation.

[FR Doc. 89-29687 Filed 12-21-89; 8:45 am]

BILLING CODE 3410-05-M